

**U.S. CUSTOMS SERVICE
EFFORTS TO COLLECT
OVERDUE PAYMENTS**

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OFFICE OF
INSPECTOR GENERAL

MEMORANDUM FOR RAYMOND W. KELLY, COMMISSIONER
UNITED STATES CUSTOMS SERVICE

FROM: Dennis S. Schindel *Dennis Schindel*
Assistant Inspector General for Audit

SUBJECT: United States Customs Service Efforts
To Collect Overdue Payments

The attached report addresses the efforts of the U.S. Customs Service to collect overdue payments from importers and brokers who become delinquent in paying duty. The audit was conducted at Customs headquarters in Washington, D.C.; the Accounting Services Division in Indianapolis, IN; and at the ports of New York/Newark, Detroit, and New Orleans.

We found that Customs was not aggressively collecting overdue payments at the ports we visited. In addition, liquidated damages claims were neither established consistently nor processed timely. For example, prior to our audit, the Newark Entry team was not reviewing the *Automated Commercial System Exception Report* that lists overdue entry summaries. Even when reviewed, we did not find consistent action to resolve the exceptions at any of the ports we visited. Also, once liquidated damages cases were established by Entry branches, Fines, Penalties and Forfeitures processing of the cases was not timely or consistent in New York/Newark and Detroit.

As a result of our audit, collections of \$292,477 have already been realized. In addition, if Customs acts aggressively, we believe that approximately \$550,000 more will be collected in Detroit and Newark. This amounts to total estimated collections of over \$842,000 in the two locations.

Second, we found reviews of entry cancellation and deletion reports in the New York/Newark Area do not provide assurance that all cancellations and deletions are appropriate. Specifically, Entry specialists and team leaders with the functional ability to cancel entries are also responsible for reviewing the weekly report that lists entry cancellations. We believe this is a major internal control weakness. Allowing the same employees to both review the reports and cancel or delete entries, decreases control over the process, and increases the risk of inappropriate and possibly fraudulent transactions.

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We have made recommendations to improve the collection of overdue payments and internal controls. In responding to our draft report, you detailed a set of corrective actions that, when fully implemented, will satisfactorily address our recommendations.

We would like to extend our appreciation to Customs for the cooperation and courtesies extended to our staff during the review. If you have any questions, please contact me at (202) 927-5400, or a member of your staff may contact Donald Benson, Director, Program Audits, at (617) 223-8640.

cc: William A. Keefer, Assistant Commissioner, Office of
Internal Affairs
Brenda A. Brockman, Director, Evaluation Oversight Staff,
Office of Planning

Attachment

EXECUTIVE DIGEST

Overview

The United States Customs Service's (Customs) ports of entry are responsible for collecting duties, taxes, fees, and, applicable penalties on merchandise imported into the United States. This is done through the process of an importer, or a broker acting on behalf of an importer, filing an entry document before merchandise can be released. Within 10 working days of merchandise release, the importer or broker must file a detailed entry summary accompanied by payment of any duties, taxes and fees due. In the event that an entry summary is filed without payment, or not filed at all, Customs should take action to establish a liquidated damages case seeking payment of any duties, taxes and fees due, plus an additional penalty amount.

The principal internal control in this process involves Customs officials at the ports of entry reviewing two internally generated reports that list unpaid entries and entries with no follow-up entry summaries. Customs policy requires that these reports, entitled *ACS List of Unpaid and Rejected Entries* (B07 report)¹ and *Late Report: These Entry Releases Have No Follow-Up Summaries* (B08 report), be reviewed weekly in an attempt to reach resolution and to establish liquidated damages cases against the importer or broker.

This report addresses Customs efforts to collect overdue payments and liquidated damages through their review of the B07 and B08 reports. We conducted this audit as part of the Office of Inspector General's continuing review of Customs program activity.

Objectives, Scope and Methodology

The objective of this audit was to determine whether Customs has taken appropriate action to minimize losses from those importers and brokers who become delinquent in their duty payments. We focused our efforts on reviewing activities of Customs personnel at the New York/Newark Area office and the ports of Detroit and New Orleans.

¹ ACS refers to Automated Commercial System.

EXECUTIVE DIGEST

The offices were selected due to the large number of entries on their B07 and/or B08 reports at the time of our audit. At these three offices, we interviewed personnel involved in processing entries and liquidated damages cases and reviewed extensive documentation related to these matters. Audit work was performed from October 1997 to September 1998.

Audit Results

Customs needs to improve its collections of overdue payments. We found that: (1) prior to our audit, Customs personnel in Newark were not reviewing the B08 report listing overdue entry summaries and, therefore, were not taking action to seek payment; (2) at the other locations we visited, even when Automated Commercial System (ACS) exception reports (B07 and B08 reports) were reviewed, effective action to resolve exceptions and collect overdue payments was not always taken; and (3) liquidated damages cases were not processed timely. As a result, significant revenues were not being collected. For example, after Customs personnel in Newark began reviewing the B08 report, additional revenue collections of \$292,477 have been received. We believe that about \$550,000 more will be collected in Newark and Detroit if Customs acts aggressively and implements our recommendations. This amounts to total estimated collections of over \$842,000 in the two locations.

We also found a major internal control deficiency in the New York/Newark Area. Certain employees with the ability to cancel or delete entries are also responsible for reviewing the weekly report listing cancellations. This practice poses a significant risk that inappropriate and fraudulent transactions could occur. While we did not find any inappropriate transactions, we can not provide assurances that all canceled and deleted entries were properly supported. We believe this also needs attention.

EXECUTIVE DIGEST

Recommendations

We made recommendations aimed at improving Customs review and collection of overdue payments. For example, we recommended that Customs: (1) issue guidance emphasizing the importance of processing late and unpaid entry summaries and liquidated damage cases, (2) update its internal review programs and (3) establish new liquidated damage cases as necessary. We also made a recommendation to improve the internal controls in New York/Newark.

Management Response and OIG Comment

Customs concurred with our findings and recommendations and has implemented, or is in the process of implementing, corrective actions which meet or exceed the requirements of our recommendations.

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BACKGROUND

The mission of the United States Customs Service (Customs) is to ensure that all goods and persons entering and exiting the United States (U.S.) do so in accordance with all U.S. laws and regulations. A major responsibility in fulfilling this mission is assessing and collecting Customs duties, excise taxes, fees and penalties due on imported merchandise. The Office of Field Operations is the organizational unit responsible for managing and establishing the policies, procedures and systems related to processing merchandise that enters the U.S. at each of Customs 301 ports of entry. Through the management of these ports of entry, Office of Field Operations is responsible for assessing and collecting duties. In Fiscal Year 1998, Customs collected about \$19 billion in duty revenues and processed over 9 million import entries.

To enter imported merchandise into commerce, an importer, or a broker acting on behalf of an importer, files a Customs Form (CF) 3461, *Entry/Immediate Delivery*. Within 10 working days of merchandise release, the importer or broker is required to file an entry summary using a CF 7501, *Entry Summary*. The entry summary provides line item descriptions of the type, quantity and value of the imported merchandise. Payment for the estimated duties, taxes and fees owed is to accompany the entry summary.

If payment and/or an entry summary is not filed, then the entries appear on one of the two following internally generated reports: *ACS List of Unpaid and Rejected Entries*² (B07 Report) and *Late Report: These Entry Releases Have No Follow-Up Summaries* (B08 Report). As an important internal control, Customs policy requires these reports to be reviewed weekly in an attempt to reach resolution and to establish liquidated damages³ cases against the importer or broker.

Liquidated damages cases for "failure to file entry summary" or for "late filing of an entry summary" are typically initiated by Entry branch personnel. Entry personnel open cases utilizing Customs automated Seized Assets Case Tracking System (SEACATS). After opening the case, they generate a CF 5955A, *Notice of Penalty or*

² ACS refers to Automated Commercial System.

³ Liquidated Damages: Monetary assessments made for breach of one or more conditions in bonds posted with Customs to ensure protection of revenue or to guarantee compliance with laws and regulations administered by Customs.

BACKGROUND

Liquidated Damages Incurred and Demand for Payment (referred to throughout this report as *Demand Notice*). Entry personnel mail these penalty notices to the violator, then forward the case file to the Fines, Penalties and Forfeitures (FP&F) office.

The FP&F office is responsible for administrative processing and tracking of all liquidated damages cases. The importer or broker has 60 days to either file a petition for relief or make payment of the assessed amount. If the importer or broker files a petition, and Customs finds there are extenuating circumstances that warrant mitigation, relief is granted as prescribed by Customs guidelines. If the importer neither files a petition for relief nor makes payment, a copy of the CF 5955A is sent to the surety (bond guarantor). The surety then has 60 days to either file a petition for relief or make payment of the assessed amount. If no response is received from either the bond principal (importer) or the surety, Customs is to issue bills to both parties demanding payment of the unpaid claims.

OBJECTIVES, SCOPE AND METHODOLOGY

The objective of this audit was to determine whether Customs has taken appropriate action to minimize losses from those importers and brokers who become delinquent in their duty payments. We focused our efforts on reviewing activities of Customs personnel at the New York/Newark Area office and the ports of Detroit and New Orleans. These offices were selected due to the large number of entries on their B07 and/or B08 reports. At the time of our audit, roughly 66 percent of all late entry summaries were from these three locations. At the three offices, we interviewed personnel involved in processing entries and liquidated damages cases, and tested entries from the B07 and B08 reports. We also reviewed a significant number of FP&F liquidated damages case files.

Additional fieldwork was conducted at Customs Accounting Services Division located in Indianapolis. We also conducted preliminary survey work at the port of Boston and Customs headquarters. We performed our audit between October 1997 and September 1998. Reports current at the time of our on-site reviews were utilized in selecting entries and FP&F cases for review.

We documented and reviewed management controls associated with Entry and FP&F operations, and conducted limited testing for possible fraud. Except for the weaknesses cited in this report, we did not identify any other weaknesses in management controls, nor did we find any fraudulent transactions.

The audit was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and included such audit tests as were determined necessary.

AUDIT RESULTS

Finding 1. Revenue Is Not Being Received Timely Because Customs Has Not Taken Appropriate Steps To Collect Overdue Payments

Customs has not taken appropriate steps to collect overdue payments. At the Customs locations we visited, overdue payments for imported goods were not being effectively collected, and liquidated damages claims were neither established consistently nor processed timely. Specifically, we found

- prior to our audit, the Newark Entry team was not reviewing the Automated Commercial System (ACS) exception report listing overdue entry summaries;
- even when ACS exception reports were reviewed, timely and consistent action to resolve exceptions was not taken by the Entry branches in New York/Newark, Detroit, and New Orleans; and,
- once liquidated damages cases were established by Entry branches, FP&F processing of the cases was not timely or consistent in New York/Newark and Detroit.

These conditions, which existed primarily due to a lack of local management attention, have hindered Customs ability to collect revenue due to the Government. For example, as a result of our audit, collections totaling \$292,477 have already been realized in New York/Newark. We believe that about \$550,000 more could be collected if Customs acts aggressively to collect overdue payments in New York/Newark and Detroit. This includes \$321,977 in New York/Newark and \$228,006 in Detroit. Thus, in total, we estimate that Customs will realize just over \$842,000 in collections from these overdue payments (\$292,477 collected plus \$550,000 estimated).

Recommendation

We recommend that the Commissioner of Customs take the following actions:

1. Issue a memorandum to all ports emphasizing the importance of (a) following established Customs directives and guidelines in processing late and unpaid entry summaries and liquidated damages cases, and (b) conducting regular Management Control Compliance Reviews.

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2. Require Management Control Compliance Review checklists be updated to ensure more comprehensive reviews of Entry's processing of entries and Fines, Penalties, and Forfeiture's processing of liquidated damages cases.
3. Ensure action is taken to establish liquidated damages cases, as appropriate, against backlogged entries in New York/Newark and Detroit.

Management Response and OIG Comment

Customs concurred with this finding and has satisfactorily implemented our recommendation. Customs will issue a memorandum to all ports emphasizing the importance of following Customs guidelines in processing late and unpaid entries and liquidated damages cases. Customs will also perform reviews under a recently enacted Self-Inspection Program to assess the timeliness and effectiveness of the processing of entries and liquidated damages cases. At New York/Newark and Detroit, action has been taken to resolve backlogs and to establish additional liquidated damages cases.

Details

New York/Newark Entry Team Was Not Resolving the B08 Report On a Regular Basis

Prior to our audit, the New York/Newark Area Entry team located in Newark⁴ was neither reviewing the ACS B08 report, nor attempting to resolve the listed entries, on a consistent basis. Rather than reviewing the report, they were sending a copy of the report to the applicable brokers once or twice a month seeking explanations for the listed entries. Even if the broker did not respond, Entry would not establish liquidated damages cases. Due to these processing inconsistencies, sizable backlogs of entries existed on the B08 reports that the Newark Entry team was responsible for reviewing. As of October 25, 1997, these B08 reports contained 1,126 entries.

Coincidental with our initial on-site review, the Newark Entry team had been instructed to begin reviewing the report on a weekly basis and to start establishing liquidated damages cases when they did not receive timely responses from the broker. Due to the sizable backlog

⁴ There are five entry teams in Customs New York/Newark Area – four in New York City and one in Newark, NJ. The information included in this section only refers to the team located in Newark.

of entries on the report, however, this has been a slow process. For instance, on a follow-up site visit, we obtained a May 16, 1998, B08 report that listed 1,371 entries, an increase of almost 250 entries from the time of our initial visit. This large backlog of entries still existed because Newark Entry personnel had decided to allow the brokers until June 30, 1998, to respond to their research request, since there were so many entries involved.

Utilizing a July 11, 1998, B08 report, the Newark Entry team started establishing liquidated damages cases for "failure to file entry summary timely." As of April 1999, Entry personnel had established 802 "failure to file entry summary timely" cases and 352 late file cases. Three hundred and fifty four of the 802 failure to file cases have been closed (316 after payments were received and 38 after Customs determined there was no violation), and 448 are still open.⁵ Collections received on these 316 cases total \$210,598.⁶ Customs has also received collections totaling \$43,522 on the 352 late file cases. Total collections received on these cases equal \$254,120.

Entry Branches Not Establishing Liquidated Damages Cases Timely

In addition to the Newark Entry team not reviewing the B08 report, we found other delays in establishing liquidated damages cases even when the B07 and B08 reports were reviewed. Testing we conducted in New York/Newark resulted in the establishment of 32 additional liquidated damages cases and revenue collections totaling \$38,357. When combined with the \$254,120 discussed above, New York/Newark has received collections totaling \$292,477 on cases established in response to our review. In Detroit, 42 of 50 entries we tested had not been processed timely. In New Orleans, we did not test the B07 and B08 reports, because Entry personnel, prior to our on site review, had "cleared" their previous large backlog of entries. Instead, we gauged the New Orleans Entry branch processing of late entry summaries by reviewing established FP&F cases (See pages 11 and 13 below). Details on our testing in New York/Newark and Detroit follow.

⁵ Collections have been received on 316 of 354 failure to file cases, while the remaining 38 have been canceled. This translates to a collection rate of 89.3 percent (316 divided by 354).

⁶ The average collection received on these 316 cases was \$666 (\$210,598 divided by 316). This \$666 includes duties, taxes, fees, interest and penalty amounts.

Delays in New York/Newark

In New York/Newark, we tested 69 entries, including all 19 entries on the Area's B07 report as unpaid entries and 50 entries randomly selected from the B08 report. Our review disclosed that 12 of the 19 unpaid entries had not been processed in a timely and/or efficient manner. Examples of processing delays and inefficiencies included:

- three entries, unpaid after 757, 413 and 333 days respectively, for which Customs had taken no action in an attempt to collect the money due and which remained unpaid 6 months after our initial query; and
- an entry, unpaid after 170 days, for which Customs had sent out four separate letters requesting the entry be paid. Even though the entry had not been paid in response to any of these letters, Customs did not establish a liquidated damages case until after we requested information on its processing of the entry.

Also, we found 32 of the 50 entries selected from the B08 report had not been processed timely and efficiently. Most of these entries were on sections of the report that the Newark Entry team was responsible for reviewing. As discussed above, this Entry team had not been taking appropriate action to resolve the B08 report prior to our audit. For instance, a number of these entry summaries were overdue by more than one year, yet they remained on the report.

After we requested information on the status of all 69 entries that we selected from the B07 and B08 reports, Customs established liquidated damages cases against 32 of the entries in November 1997. Again, processing delays have impacted Customs ability to collect all moneys due in a timely and efficient manner. As of October 1998, some type of resolution had been reached on only 13 of these 32 cases--six had been closed when it was determined there had been no violation, and collections were received for the other seven.

Although only 13 of 32 have had some type of resolution, \$38,357 in duties and liquidated damages claims have been paid, and additional demands of \$12,906 have been made on seven of these cases. Also, for the other 19 cases that remain open, demands totaling \$40,057 have been made. While over \$38,000 has been collected on these cases, it is unknown how much of the outstanding demand amount of approximately \$53,000 will ever be collected by Customs.

Delays in Detroit

The B08 report for Detroit contained a significant number of entries. As of February 1, 1998, there were 535 entries on the report, including 423 (79.1 percent) that were more than 8 weeks overdue. Detroit Entry teams only review the B08 report once a month. Rather than reviewing the B08 report on a weekly basis, the Detroit Entry teams instead review the B15 report, *4 Week Extract Late Report: These Entry Releases Have No Follow-Up Summaries*, weekly. This non-cumulative report lists entries 4 weeks after cargo is released, if no entry summary has been filed.

In Detroit, we tested 50 entries randomly selected from the port's February 1, 1998, B08 Report, and found 42 had not been processed in a timely and/or efficient manner. As of April 1998, the Entry branch had neither reached resolution nor established liquidated damages cases against 32 entries with release dates ranging from April 1992 to November 1997. This included eight entries for which the Entry branch had sent letters to the broker requesting the entries be submitted. The brokers had not responded with either the entry summary or proof the entry should be canceled for any of these entries. Also, these letters were either sent to the brokers months after the entry summary was due or had been sent months before our review, and entry personnel had taken no follow-up action when they did not receive a response. Examples included:

- one entry, released in August 1996, for which the letter to the broker requesting the entry be submitted was not sent until January 20, 1998; and
- another entry, released in August 1997, for which the letter was sent on November 6, 1997. Even though entry did not receive a response, no further action had been taken as of April 1998.

The other 24 entries for which no liquidated damages cases were established involves a situation unique to Detroit. In Detroit, due to a local policy initiated by the FP&F officer, Entry personnel do not establish liquidated damages cases without proof of import--usually a manifest. In these 24 instances, Entry personnel had requested proof of import from the Customs inspection stations but had received no response. These requests, dating back to 1996, include the following:

- Entry personnel twice requested the manifest from the Customs inspection station--once in June 1996 and again in March 1997--for an entry that was released in March 1996. Even though no response was received, Entry personnel took no other action, such as requesting the broker submit the entry.
- Entry personnel sent multiple requests to both the broker and the Customs inspection station for a number of entries released in 1996 and 1997 and received no responses. However, since port policy is to not issue liquidated damages cases without proof of import, no action has been taken to establish failure to file entry summary cases against these overdue entries, as Customs inspection stations have not provided proof of import.

The other 10 entries that we believed were processed either untimely or inefficiently included eight entries for which liquidated damages cases were established. These cases were established only after significant delays. For example, late file liquidated damages cases were established against three entries after the entry summaries were filed. However, these entry summaries were filed between 6 and 10 months late and entry had not taken action to establish failure to file entry summary cases against these entries between the time they were due and when they were filed. Failure to file entry summary cases were established against five entries. However, these cases were not established until the entry summaries were between 7 and 12 months overdue. The other two entries were filed late, yet entry did not establish late file liquidated damages cases.

Significant Revenue to be Realized

We believe additional revenue of about \$550,000 will be realized if Customs acts aggressively to collect overdue payments remaining in New York/Newark and Detroit. This includes an estimated \$321,977 in New York/Newark and \$228,006 in Detroit.

New York/Newark

In addition to the \$254,120 already collected by Newark, it is our belief that significant additional revenues will now be realized. For example, if Customs receives collections equal to \$666 per case (footnote 6), for 89.3 percent (footnote 5) of the 448 cases remaining open, this would amount to \$266,400 (448 cases X 89.3 percent = 400; 400 cases X \$666 average collection = \$266,400).

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Additionally, \$55,577 remains due on the 352 established late file cases. These projections total \$321,977.

Detroit

If the Detroit Entry branch was able to establish liquidated damages cases against the backlog of entries on their B08 report--either because the inspection stations started to provide requested manifests or because the FP&F Officer altered policy to allow it--significant revenue collections could be realized. For example, if the Entry branch determined cases should be established against the entries on their report, collections of \$228,006 could be expected (535 cases X 89.3 percent of cases not canceled X \$477).⁷ However, since the Entry branch follows FP&F guidelines against establishing cases without proof of import and since the inspection stations have not provided proof of import for those entries we tested, these collections might never be realized.

Need for Better Management Oversight

In Detroit, cases have not been established timely or efficiently because management has not taken steps to ensure requirements for establishing cases have been met. Namely, action has not been taken to ensure manifests, or other proof of import, are provided in a timely manner to entry personnel. Furthermore, Management Control Compliance Reviews that might have detected the Entry branch's deficiencies in establishing liquidated damages cases did not adequately assess the branch's entry processing.

The Management Control checklist for review of the B08 report asks whether (1) a request was made to the broker for submission of the entry; (2) a liquidated damages case was issued; and (3) if a case was not issued, was the entry canceled with proper documentation. While these seem to be valid questions, the sample reviewed is only 10 entries, and when answers to these review questions are negative, further action does not appear to be taken. For example, the latest reviews that we obtained, conducted in March 1997 and January 1998, each covered only

⁷ The 89.3 percent collection rate utilized is the same as that detailed on p. 6 for Newark. The \$477 figure is comprised of: \$165, which was the average collection per entry in Detroit during fiscal year 1998; \$112 in interest, which is 68 percent of the average entry collection--this is the same percentage as was computed in Newark; and, the \$200 Option 1 amount due on failure to file cases.

10 entries. The March 1997 review included a finding that no action had been taken on 2 of the 10 sampled entries. However, no recommendation regarding this finding was included in the recommendations section of the review report.

Among the 10 entries sampled for the January 1998 review were one entry released in 1992 and three released in 1996. However, even though the review identified that cases had not been established, nor had the entries been canceled, this was not identified as a deficiency. Thus, there was no recommendation made that more timely action be taken to resolve these entries.

In New York/Newark, processing deficiencies existed because management had not taken steps to ensure that the Newark Entry team was properly reviewing and resolving the B08 report. Responsibility for reviewing the report was new to the Newark Entry team, as prior to Customs reorganization in 1995, the New York Entry teams were responsible for these reviews. While functions changed under the reorganization, Area management was ultimately responsible for ensuring that required duties continued to be accomplished. Furthermore, Management Control Compliance Reviews that might have detected the Newark Entry team's deficiencies in processing the B08 report and establishing liquidated damages cases were not comprehensive enough to provide adequate coverage of the Area's entry processing. Entry processing reviews were only conducted twice a year, and each covered only one of the five Entry teams in the Area. Additionally, the reviews called for only a cursory review of the B08 report and did not evaluate whether liquidated damages cases were being established timely. FP&F conducted Liquidated Damages Case Processing reviews on an annual basis. These annual reviews were limited to reviews of only five open and five closed cases.

Review of FP&F Case Files Also Revealed Processing Deficiencies

The paragraphs above describe our testing of entries for which liquidated damage cases had not yet been established. To augment this testing, we also sampled liquidated damages cases already established to see if similar delays occurred. Our sample consisted of 45 liquidated damages case files maintained by the FP&F Office in New York, 38 in Detroit and 44 in New Orleans. These reviews provided additional evidence that Entry units did not establish liquidated damages cases in a timely manner, and

also revealed inconsistencies in processing established liquidated damages cases by Detroit and New York FP&F personnel.

Delays in Establishing Cases

Customs regulations require that entry summary documentation be filed, with estimated duties attached, within 10 working days after the time of entry. Typically, Entry units, as part of their attempt to resolve entries listed on the B08 report, will send a letter to the broker requesting that the broker either file the overdue entry summary or provide proof the entry should be canceled. These letters usually request a response within 5 to 15 days. Since entries do not appear on the B08 report until they are 2 weeks overdue, it would seem reasonable to expect entries to be as late as 6 weeks overdue before a case is established for failing to comply with Customs regulations.

Customs regulations state that, if an entry summary is filed late, an immediate demand for liquidated damages should be made. Therefore, it would seem that once an entry summary is filed late, cases should be established quickly. When an importer or broker files an entry summary in response to a failure to file entry summary case issued by entry personnel, entry personnel then convert the case to a late file case. Late file cases can be closed if the violator pays what is known as an Option 1 amount. The Option 1 amount on these cases is equal to \$200 plus penalty interest on the amount that was due on the entry. Usually, this is significantly less than the demand amount shown on the CF 5955A, *Demand Notice*.

Our review of FP&F case files in New York, Detroit and New Orleans revealed delays on the part of Entry personnel in establishing both failure to file and late filing of entry summary cases, and also in converting failure to file cases to late file cases after the entry summary was filed.

New York

In New York, our review of 45 case files revealed delays of more than 10 weeks in establishing either a failure to file or a late filing case for 11 entries. Delays in establishing cases ranged from 2.5 to 22 months. This included a lengthy delay of 5 months to establish a late file case. In other words, once this entry was filed late, it

took entry 5 months to even establish a liquidated damages case. Our review of New York case files also revealed delays in converting 11 liquidated damages cases from failure to file to late file cases. These delays ranged from approximately 10 weeks to over 13 months.

Detroit

In Detroit, our review of 38 case files revealed delays of 3 or more months in establishing failure to file cases against 15 entries. Delays in establishing cases ranged from 3 to 42 months. Furthermore, the delay was more than a year for seven of these entries. For two other cases, the FP&F Office had requested that entry cancel the entries, as FP&F had received documentation to support canceling the entries. However, Entry had not canceled these entries 6.5 and 11 months after FP&F made its request. Additionally, Entry had established a case against one other entry, but had neither mailed the *Demand Notice* nor forwarded the case file to FP&F for processing.

New Orleans

Our review of New Orleans' case files detected delays and/or deficiencies on the part of the Entry branch for 27 of the 44 cases. Included among these delays and/or deficiencies are:

- Fifteen instances where the failure to file or late file case was not established timely. Delays ranged from 4 to 18 months. This included four late file cases that were established 6 or more months after the entry summary was submitted late.
- Five instances where failure to file cases were not converted to late file cases until 5 or more months after the entry summary was filed late.
- Five instances where the entry summary had been filed between 89 and 284 (89, 131, 165, 250 and 284) days late, yet Entry had never established failure to file entry summary cases. Furthermore, for two of these five, late file cases were not established until 3 and 6 months, respectively, after the entries were filed.

- Two instances where Entry personnel had established a case against the entry, but they had neither mailed the *Demand Notice* to the violator nor had they forwarded the case file to FP&F for processing.

While our review of FP&F case files was not statistically based, it did provide substantial anecdotal evidence that the Entry branches we visited were not processing overdue entries in a timely manner. These processing delays negatively impact Customs ability to timely collect moneys due. Furthermore, lengthy delays increase the possibility that Customs may not collect the moneys due at all.

As discussed previously, processing delays and deficiencies existed because management has not taken adequate steps to ensure the B08 report is reviewed and resolved in a timely manner. For example, in Detroit, action had not been taken to ensure requirements (i.e. proof of import) for establishing cases have been met. Furthermore, Management Control Compliance Reviews that might have detected processing deficiencies were not comprehensive enough to provide adequate coverage of entry processing. Reviews of entry processing provided only a cursory review of Entry personnel efforts to resolve the B08 report and establish liquidated damages cases.

FP&F Case Processing Inconsistencies

Customs regulations, as described in 19 Code of Federal Regulations 172, allow a bond principal 60 days, from the date the notice of liability for liquidated damages is mailed, to file a petition for relief. If the principal does not pay the claim, arrange to pay the claim or file a petition within the 60-day period, then the surety is notified of the claim. The surety then has 60 days to file a petition for relief. If no response is received from either the principal or the surety, Customs is to issue bills to both parties demanding payment of the unpaid claims. While there is no statutory requirement for reviewing petitions within a certain time frame, the system used to track FP&F cases, SEACATS, sets action due dates 90 days from the date a petition is received.

Prior to the implementation of SEACATS, the FP&F module of ACS automatically generated follow-up notices to sureties when

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no response was received from the violator. Also, bills were automatically generated when the surety did not respond. When SEACATS came on-line, these features were not functional.

Our review of case files showed that the FP&F office in New Orleans was adequately following up on their cases. However, in New York and Detroit there were many processing inconsistencies. These FP&F offices were not sending follow-up notices to sureties when violators were not responding to the initial demand notice within 60 days. Nor were they responding to petitions filed by brokers or sureties in a timely manner.

New York

In New York, we noted that for 12 of 45 cases, FP&F had not taken any action when the violator had not responded to the initial demand notice within 60 days. Delays noted varied from 76 to 189 days. FP&F officials in New York informed us that their policy was to either send, via certified mail, manually generated follow-up notices to sureties or place a courtesy telephone call when they did not receive a response from the violator. However, our review revealed no instances where the surety was notified when there had not been a timely response from the bond principal.

For one other case, we noted that Customs had issued bills to the surety starting in September 1996. The bills noted the claim was delinquent and that if not settled immediately, sanctions and legal action would be considered. However, even though the surety had not responded with either a payment or a petition for relief, FP&F took no further action until May 1997, and payment was not received until August 1997.

A May 1998, FP&F Case Listing Log for New York's FP&F office showed 316 cases where the violator had not responded to the initial demand within 60 days and no further action had been taken by FP&F. The log also showed 51 cases where the surety had not responded to a follow-up notice within 60 days and FP&F had taken no follow-up action.

Detroit

Our review of 38 case files in Detroit revealed a number of processing delays on the part of FP&F. For example:

- Eleven cases where no follow-up action had been taken when a broker or surety had not responded to a demand notice within 60 days. At the time of our review, delays since the issuance of demand notices were between 4.5 and 25 months.
- Ten cases where it took FP&F between 5 and 22 months to respond to petitions for relief filed by the violator or surety.
- One case where a demand on surety was not made until 30 months after the violator failed to respond to FP&F's request for documents.
- One case where FP&F returned a check to the violator because it was for the wrong amount, yet even though a new check was not submitted, FP&F had not taken any action as of 9 months later.

FP&F officials informed us they did not have the resources to generate manual notices for those cases where they did not receive a timely response from the violator. We were also informed that headquarters had not required the field locations to manually issue demand notices. Additionally, there is no statutory requirement for reviewing petitions within a certain period of time. Due to other priorities and increased workload, petitions have not been processed timely, according to FP&F officials.

While FP&F was neither required to issue manually generated follow-up notices nor to review petitions within a certain time frame, failure to do so had contributed to a sizable backlog of liquidated damages cases. For example, a February 1998 Action Past Due report for Detroit showed 704 cases where no response had been received from the violator and no further action had been taken by FP&F. There were also 498 cases where FP&F had not responded to a petition within 90 days. It should also be noted that FP&F had stopped conducting Management Control Compliance Reviews of Liquidated Damages Case Processing when SEACATS came on-line in November 1996.

Conclusion

Customs ability to collect all moneys due--both for duties owed and liquidated damages claims--has been hindered by delays on the part of entry personnel in establishing cases and FP&F in processing cases. Delays at the ports we visited were primarily due to a lack of local management attention. As a result of our audit, Customs has begun to take some corrective action, but more is needed. We believe that Customs needs to implement our recommendations listed above. Better controls and more aggressive actions to collect overdue payments should result in about \$550,000 in additional collections. When combined with the \$292,477 already collected, total estimated collections should total over \$842,000.

Finding 2. Reviews Of Entry Cancellation And Deletion Reports Are Inadequate

Reviews of entry cancellation and deletion reports in the New York/Newark Area do not provide adequate assurance that all cancellations and deletions are appropriate. Specifically, our audit revealed that Entry specialists and team leaders, who have the functional ability to cancel entries, are also responsible for reviewing the weekly report that lists entry cancellations. Also, Entry supervisors, who are responsible for processing entry deletions, are also responsible for reviewing the weekly report that lists entry deletions. Furthermore, our review of entry cancellation and deletion reports and supporting documentation identified reports that revealed no evidence of review, and cancellations and deletions listed on the reports for which there was no supporting documentation.

These conditions exist because management has not ensured appropriate management controls have been effectively implemented and followed. Allowing employees who have the functional ability to cancel or delete entries to also be responsible for reviewing the reports, decreases control over the process and increases the risk of inappropriate and possibly fraudulent transactions. While our review did not reveal any inappropriate or fraudulent transactions, neither did it provide assurance that all canceled and deleted entries were properly supported and reviewed.

Recommendation

We recommend the Commissioner of Customs ensures that the New York/Newark Area Entry branch management takes the following actions:

1. Limits the functional ability to cancel entries.
2. Institutes procedures to ensure cancellation and deletion reports are reviewed on a weekly basis by a disinterested party who does not have the ability to cancel or delete entries.
3. Maintains documentation supporting entry cancellations and deletions for a reasonable period of time.
4. Institutes appropriate management control reviews of entries canceled and deleted by Entry branch personnel.

Management Response and OIG Comment

Customs concurred with our finding and has taken corrective actions which meet or exceed the requirements of our recommendation. For example, Customs management in New York no longer allow supervisory Entry officers and Entry specialists to cancel entries. Similarly, other selectivity functions have been removed from inappropriate personnel. Customs has also instituted procedures to ensure that cancellation/deletion requests submitted by the trade are adequately reviewed, and has taken action to ensure that canceled and deleted reports are reviewed, by appropriate personnel, on a weekly basis. In addition, Customs will maintain cancellation/deletion documentation on site for 6 months, before sending the documents to storage. Also, Customs will ensure that internal reviews of canceled and deleted entries will be conducted as part of their Self-Inspection Program. Finally, Customs will issue a national directive establishing policy requiring separation of duties between employees who cancel and delete entries, and employees who are responsible for reviewing cancellation/deletion reports.

Details

Internal Controls

Office of Management and Budget Circular A-123 provides guidance to Federal managers on improving the accountability and effectiveness of Federal operations. This circular calls for agency managers to incorporate basic management controls in the procedures that govern their programs and operations.

Included among basic management controls are standards covering delegation of authority, separation of duties and supervision. These standards include ensuring that appropriate authority, responsibility and accountability are defined and delegated to accomplish the mission of the organization. Additionally, key duties and responsibilities in authorizing, processing, recording and reviewing official agency transactions should be separated among individuals. Managers should exercise oversight to ensure individuals do not exceed or abuse their assigned authorities.

Entry branch employees cancel or delete entries for a number of reasons, typically because an entry was inadvertently submitted twice

for the same merchandise or because merchandise never arrived. Entries should only be canceled or deleted if the broker or importer provides documentary proof supporting such action. The process of canceling or deleting an entry is accomplished through the use of ACS function codes Entry Cancellation (ENCN) or Cargo Selectivity Delete (SSAD).

Both of these codes are defined in Customs Directive (CD) 099-5610-005, *ACS Security Management Control Program*, dated July 22, 1993, as critical function codes, meaning these function codes should be assigned only to qualified employees. According to this directive, recommended users of the ENCN function code are lead Customs aides and Entry branch supervisors. Recommended users of SSAD are supervisory inspectors and Entry control supervisors.

When an entry is canceled or deleted, it will appear on the appropriate ACS exception report. Cancellations appear on the B06 report, *ACS List of Rejected And Canceled Entries*, and deletions appear on the S21, *Cargo Selectivity Weekly Selectivity Delete Report*. The B06 report lists all entry cancellations for the week. It also provides the reason for the cancellations. The S21 report lists entries that were processed through the ACS selectivity module that were later deleted. This report also provides the reason for deletions. Neither report is cumulative.

According to CD 099-5610-004, *Resolving Certain ACS Exception and Error Reports As They Relate To Entry Branches*, dated June 18, 1993, the B06 report is to be reviewed on a weekly basis, and any and all discrepancies are to be resolved. The directive also states each Entry unit must maintain a file of all canceled entries with supporting documents. The S21 report is not discussed in this directive, as it is not considered to be an entry-related report. According to the *ACS Reports Handbook*, typical users of this report would be Inspection and Control and Operational Analysis staff personnel. However, at certain locations, including New York/Newark, some Entry unit personnel have the functional ability to delete entries.

During our audit, we reviewed procedures for canceling and deleting entries to determine whether controls were in place to reduce the risk of inappropriate and/or fraudulent transactions. We found the controls adequate in New Orleans and Detroit, but in the New York/Newark Area weaknesses existed.

Separation of Duty Concerns

Entry Cancellations

We discovered that on some New York/Newark Area Entry teams, Entry specialists, who have the functional ability to cancel entries, are also responsible for conducting the weekly reviews of the cancellation report. The Entry specialists on these teams are responsible for reviewing the report on a rotating basis. The Entry supervisor for these teams stated that specialists are supposed to obtain authorization from either him or a team leader before they cancel entries. However, since they have the functional ability to cancel entries without obtaining authorization, there is nothing to prevent them from doing so. This creates a situation where entry specialists could be canceling entries at the same time they are responsible for reviewing, and ensuring the appropriateness of, the cancellation report.

Delegating both the authority to cancel entries and responsibility for reviewing the cancellation report to Entry specialists is a concern. While management might deem delegating the authority to cancel entries to Entry specialists instrumental to successfully accomplishing the branch's mission, they should ensure that the appropriate separation of duties are in place over the review of the cancellation report.

On other Entry teams, the team leader is responsible for both canceling entries and weekly review of the B06 report. Again, this is a situation where there is no separation of duties. Responsibility for reviewing the report should be delegated to an individual who does not have the ability to cancel entries.

Entry Deletions

A similar situation exists concerning entry deletions. For four of the five Entry teams in the New York/Newark Area, the two Entry supervisors are responsible for deleting entries. One of the supervisors stated he reviews the weekly deletion report. However, since he is reviewing deletions he processed, there is no separation of duties between the process of deleting entries and reviewing the deletion report. The other supervisor stated she does not review the S21 report. She does, however, keep the report on file with the applicable supporting documentation. On the other Entry team, the

team leader is responsible for deleting entries. Documentation supporting the deletions is maintained; however, the S21 report is neither obtained nor reviewed.

Since Entry supervisors and team leaders are responsible for both processing entry deletions and for reviewing/maintaining supporting documentation, there is no independent review of the S21 report to ensure deletions are properly supported. Given the critical nature of both the cancellation and deletion functions, it would seem that controls should be in place to ensure that an individual without these functional capabilities is responsible for reviewing the applicable reports.

Concerns with Review of Cancellation and Deletion Reports

We reviewed cancellation and deletion reports covering a 6-month period (March-August 1998). Our review did not provide assurance that all cancellations and deletions have been appropriate. While the documentation we were able to review supported the applicable cancellations and deletions, support for many cancellations and deletions was not available for review. Additionally, many of the reports we requested were not obtained, and of those that were obtained, many did not appear to have been reviewed. Specifically, we found:

- Thirteen of the 48 cancellation reports we reviewed did not appear to have been reviewed. Also, 30 other cancellation reports were not provided for review. (Note: We requested 26 reports from each of three teams.)
- None of the 22 deletion reports we reviewed appeared to have been reviewed. Also, 30 other deletion reports were not provided. (Note: We requested 26 reports from each of the two entry supervisors in New York.)
- Supporting documentation was obtained for only 64 of the 261 (24.5 percent) entries that we selected for further review from the cancellation reports.
- Supporting documentation was obtained for only 13 of the 105 (12.4 percent) entries that we selected for further review from the deletion reports.

Entry personnel could not explain missing reports and supporting documentation. However, it is reasonable to assume that missing documentation is at least partially explained by the lack of appropriate controls over the process of reviewing cancellation and deletion reports.

Management Control Compliance Reviews Inadequate

Management Control Compliance Reviews did not provide adequate coverage of entry cancellations or deletions. Management Control Compliance Reviews of entry processing call for the reviewer to check for weekly reconciliation of the cancellation report by Entry supervisors for entries canceled by Entry team employees. In addition, the reviewer should determine, where necessary and possible, whether the assignment of tasks allows for sufficient separation of duties. However, the two most recent Management Control Compliance Reviews did not identify that reports were not being reviewed by Entry supervisors or that many weekly reports did not appear to have been reviewed. The reviews also did not reveal that Entry specialists and/or team leaders were responsible for both canceling entries and reviewing the cancellation report. Furthermore, even though Entry personnel were responsible for deleting entries, there was no Management Control Review of deletions performed by Entry personnel.

In our opinion, there is inadequate control over the cancellation and deletion of entries in the New York/Newark Area. The combination of allowing employees with the functional ability to cancel or delete entries to also be responsible for reviewing cancellation and deletion reports; the apparently inconsistent review of cancellation and deletion reports; missing documentation supporting cancellations and deletions; and inadequate Management Control Compliance Reviews, precludes Customs from the assurance that all cancellations and deletions are appropriate. While our review did not disclose inappropriate or fraudulent transactions, we could not reach a conclusion on many of the transactions we sampled because of the lack of supporting documentation. Furthermore, we were left with the belief that entries could be inappropriately canceled or deleted without being detected in the review process.

ABBREVIATIONS

ACS	Automated Commercial System
B07 report	ACS List of Unpaid and Rejected Entries
B08 report	Late Report: These Entry Releases Have No Follow-up Summaries
CD	Customs Directive
CF	Customs Form
ENCN	Entry Cancellation
FP&F	Fines, Penalties and Forfeitures
SEACATS	Seized Assets Case Tracking System
SSAD	Selectivity Delete

MANAGEMENT RESPONSE

UNITED STATES GOVERNMENT
Memorandum

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE



DATE: September 2, 1999

FILE: AUD-1-OP SMT

MEMORANDUM FOR DENNIS S. SCHINDEL
ASSISTANT INSPECTOR GENERAL FOR AUDIT

FROM: Director, Office of Planning

SUBJECT: United States Customs Service Efforts to Collect
Overdue Payments

Thank you for providing us a copy of your draft audit report of Customs Efforts to Collect Overdue Payments. We have reviewed it and generally agree with its findings and would like to have the attached comments incorporated into your final report. The attached response does not warrant protection under the Freedom of Information Act.

Once again, we appreciate the opportunity to respond to your draft response. If you have any questions, please have a member of your staff contact Ms. Brenda Brockman at (202) 927-1507.

A handwritten signature in black ink, appearing to read "William F. Riley".
William F. Riley

Attachment

Cc: Chief of Staff

MANAGEMENT RESPONSE

**U.S. Customs Service
Response to OIG Draft Report of
Customs Efforts to Collect Overdue Payments**

Finding 1. Revenue is Not Being Received Timely Because Customs Has Not Taken Appropriate Steps to Collect Overdue Payments

U.S. Customs concurs with this finding. Comments, corrective actions and time frames for completion of each recommended action item are as follows:

Recommendation 1:

Issue a memorandum to all ports emphasizing the importance of: (a) following established Customs directives and guidelines in processing late and unpaid entry summaries and liquidated damages cases and (b) conducting regular Management Control Compliance Reviews.

Customs Response:

A memorandum will be issued to all Customs ports emphasizing the importance of following Customs directive and guidelines in processing late and unpaid entry summaries and liquidated damages cases. This memorandum will also emphasize the importance of conducting regular Self-Inspections. The Office of Field Operations will issue this memorandum no later than October 1, 1999.

On February 25, 1999 an Information Notice entitled Management Control Reviews and Self-Inspections was issued to notify Customs field offices that the Self-Inspection Program has replaced the Customs Management Control Review Program. The Self-Inspection Program is now the official Customs response to the management controls review strategy required by the FMFIA and Office of Management and Budget (OMB) Circular A-123. A Customs Directive outlining the requirements for the new Self-Inspection Program is currently being developed, and will be issued by December 31, 1999.

Recommendation 2:

Require Management Control Compliance Review checklists be updated to ensure more comprehensive reviews of Entry's processing of entries and Fines, Penalties, and Forfeiture's processing of liquidated damages cases.

MANAGEMENT RESPONSE

Customs Response:

The Self-Inspection Program worksheets are updated on a quarterly basis, and the next update is scheduled for December 1999. The Office of Field Operations will ensure that the next Self-Inspection worksheet update includes requirements for comprehensive review of the B07 report (ACS List of Unpaid/Rejected Entries) and B08 (Entry Releases with No Follow-up Summaries) report. The updates will also address the appropriate and timely assessment and processing of liquidated damages cases by field Entry offices and the Fines, Penalties, and Forfeitures office (FP&F).

Recommendation 3:

Ensure action is taken to establish liquidated damages cases, as appropriate, against backlogged entries in New York/Newark and Detroit.

Customs Response:

Customs management in New York/Newark and Detroit have taken action to resolve pending listings on their B08 reports, and to ensure that liquidated damages cases are being initiated, when appropriate.

Customs management in New York has taken steps since July of 1998 to ensure that the Newark Entry team has aggressively approached the resolution of pending listings on the B08 report. To illustrate this, the B08 report for port code 4671, which was identified in the OIG report, has been reduced from 1371 entries on May 16, 1998 to 566 entries as of March 13, 1999. This represents a recovery of \$233,900.00 in duty, interest, and liquidated damages Option 1 amounts. It is estimated that the remaining 566 cases will recover \$189,600.00 in duty, interest, and Option 1 amounts.

Customs management in Detroit now requires that the Detroit Entry teams review and resolve only the B08 report, rather than attempting to resolve both the B15 report (4 Week Extract Late Report -- These Entry Releases Have No Follow-Up Summaries) and the B08 report. In an effort to improve accountability and consistency, the B08 report will be reviewed and resolved by a designated Entry Specialist for a 3-month period. The Entry teams have established a notification letter to respond. If no response is received within 10 calendar days, liquidated damages will be issued. Standard operating procedures for working later reports have been revised to include standard terminology that must be used to indicate the status of the items reported. Entry supervisors will review the reports that are worked by their teams on a monthly basis to ensure that the reports are being processed timely.

MANAGEMENT RESPONSE

Finding 2. Reviews of Entry Cancellation and Deletion Reports Are Inadequate

This finding is specific to the New York/Newark Area Entry branch. U.S. Customs concurs with this finding. Comments, corrective actions and time frames for completion for each recommended action item are as follows:

Recommendation 1:

Limit the functional ability to cancel entries.

Customs Response:

The following actions have been taken by Customs management in New York:

The ACS function code ENCN, used to cancel entries, has been removed from the ACS function code profiles of all supervisory entry officers and entry specialists in the New York/Newark Area. The function has been limited to entry specialist team leaders only.

The ACS function code SSAD, used to delete selectivity records, has been removed from the ACS function code profiles of all entry specialists and entry specialist team leaders in the New York Newark Area. This function is now limited to supervisory entry officers and supervisory inspectors only.

Entry specialists will review entry cancellation/deletion requests that are submitted to U.S. Customs by the trade. Entry specialists will determine if a cancellation/deletion is justified. If a cancellation is determined to be appropriate, the entry specialist will present all documentation to the entry specialist team leader who will have the functional capability to perform the cancellation. If a deletion is determined, the entry specialist will present all documentation to the supervisory entry officer or supervisory inspector, as appropriate, who will have the functional capability to perform the deletion.

Recommendation 2:

Institute procedures to ensure cancellation and deletion reports are reviewed on a weekly basis by a disinterested party who does not have the ability to cancel or delete entries.

MANAGEMENT RESPONSE

Customs Response:

Supervisory entry officers in New York/Newark have been instructed to review and annotate the B06 (ACS List of Cancelled Entries) report on a weekly basis. Entry specialist team leaders review and annotate the S21 (Weekly Selectivity Delete Report) on a weekly basis.

Recommendation 3:

Maintains documentation supporting entry cancellations and deletions for a reasonable period of time.

Customs Response:

Entry Specialists in New York/Newark are now required to maintain all cancellation/deletion documentation on site for 6 months. After 6 months, the documentation will be batched in files and forwarded to Documents Control for storage.

Recommendation 4:

Institutes appropriate management control reviews of entries canceled and deleted by Entry branch personnel.

Customs Response:

The Self-Inspection Program worksheets are updated on a quarterly basis, and the next update is scheduled for December 1999. The Office of Field Operations will ensure that the next update included requirements for more comprehensive review of entries canceled or deleted by Entry branch or inspectional personnel.

U.S. Customs will also take action to issue a directive to all field offices to establish national policy that will require a separation of duties between Customs employees who have the functional capability to cancel or delete entries, and Customs employees who are responsible for reviewing the S21 and B06 reports. The directive will also require that all supporting documentation for entry cancellations and deletions be maintained on-site for a reasonable period of time. Port Directors will be responsible for ensuring that the reports are reviewed on a weekly basis, and that a separation of duties is in place if staffing allows. The directive will be issued by December 31, 1999, and will be referenced in the Self-Inspection worksheets.

MAJOR CONTRIBUTORS TO THIS REPORT

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